

AMENDMENT UNDER OAL RULE
Statement of Reasons

Title 18. Public Revenue
Regulation 1668, *Sales for Resale*

A. Factual Basis

Regulation 1668 generally addresses the penalty for misuse of a resale certificate. The State Board of Equalization hereby proposes to amend this regulation under OAL Rule 100.

Revenue and Taxation Code (RTC) sections 6072 and 6094.5 each provide that a penalty of 10 percent of tax due or five hundred dollars (\$500), whichever is greater, is imposed on a person who gives a resale certificate for property which he or she knows will not be resold by him or her in the regular course of business. Currently, sections 6072 and 6094.5 are referenced in Regulation 1668 under the heading “Improper Use of Certificate” in subsection (d), but the penalty is not described. Revisions to subsection (d) are proposed to specify and describe the penalty that may be imposed for misuse of a resale certificate. Proposed revisions also clarify that the other penalties referenced in Regulation 1668(d)(2), the 10 percent penalty for negligence and the 25 percent penalty for fraud provided in RTC sections 6484 or 6485, may be imposed in addition to the penalty of 10 percent of tax due or \$500, whichever is greater.

B. Proposed Amendment

Subsection (d) -revisions proposed to specify and describe the penalty that may be imposed for misuse of a resale certificate and also clarify the imposition of that penalty added.

Reference- RTC sections 6072 and 6094.5.

The foregoing change is appropriate for processing under Rule 100 because it makes the regulation consistent with statutory change.